IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v-

$67,847.00 in UNITED STATES CURRENCY, and

ONE 2007 HONDA ODYSSEY,
VIN: 5FNRL38747B436542,

Defendants.

VERIFIED COMPLAINT FOR FORFEITURE

The United States of America, by its attorney, William J. Hochul, Jr., United States Attorney for the Western District of New York, Mary Clare Kane, Assistant United States Attorney, of counsel, for its verified complaint herein alleges as follows:

CAUSE OF ACTION

1. This is an action in rem for the forfeiture of $67,847.00 in United States Currency, hereinafter referred to as "defendant currency" and for one 2007 Honda Odyssey, herein referred to as "defendant vehicle", both seized from MOHAMMED WAQAS AKRAM, pursuant to the provisions of 21 U.S.C. § 881 (a)(6) and (a)(4) respectively.

2. This court has subject matter jurisdiction of this action pursuant to the provisions of 28 U.S.C. §§ 1345 and 1355(a), in rem jurisdiction pursuant to 28 U.S.C. §§ 1355(b) and 1355 (d). Venue is properly premised in the Western District of New York pursuant to 28 U.S.C. § 1395 and 21 U.S.C. §881(j).

3. On April 14, 2015, Drug Enforcement Administration (DEA) Agents with assistance of New York State Police (NYSP) did seize the defendant currency and vehicle from MOHAMMED WAQAS AKRAM a/k/a OMAR. The defendant currency was seized upon the basis that it was furnished, or intended to be furnished in exchange for a controlled substance, is proceeds traceable to exchanges of controlled substances and/or had otherwise been used to facilitate a violation of 21 U.S.C. Subchapter I of Chapter 13 §§801 et. seq., therefore, the defendant currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6). The defendant vehicle was seized upon the basis that it was used and was intended to be used to transport and facilitate the transportation, sale, receipt, or possession of controlled substances in violation of 21 U.S.C. § 881(a)(4). The defendant currency and vehicle are now in the custody of the United States Marshals Service, Buffalo, New York.

BACKGROUND INFORMATION

4. In September 2014, the DEA began to work collaboratively with a NYSP investigation of a large-scale synthetic cannabinoid trafficking organization in the Western District of New York. One of the targets, MOHAMMED WAQAS AKRAM, was believed to head the trafficking organization and utilized a store to distribute synthetic cannabinoid

products in Rochester, New York, known as “Best in the West”. AKRAM managed and/or was employed by “Best in the West”.

SYNTHETIC CANNABINOIDS

5. Synthetic cannabinoid products are a mixture of an organic "carrier" medium, such as the herb-like substance Damiana, which is then typically sprayed or mixed with a synthetic compound chemically similar to THC (tetrahydrocannabinol), the psychoactive ingredient in marijuana. Currently, there are hundreds of synthetic cannabinoid compounds. Synthetic cannabinoid products are commonly purchased in “head shops” (retail stores specializing in drug and smoking paraphernalia), tobacco shops, convenience stores, adult stores and over the Internet. They are often marketed as incense or "fake weed" and often carry the markings "not for human consumption." Distributors of these products utilize this caveat in an attempt to circumvent the product being identified as a controlled substance analogue of the newly controlled synthetic cannabinoids. Users of these products have reported effects similar to marijuana, but many times greater, including, but not limited to, paranoia, panic attacks, increased heart rate and increased blood pressure.

6. On January 30, 2015, the Administrator of the Drug Enforcement Administration issued a final order to temporarily schedule three synthetic cannabinoids (SCs) into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act (CSA). The substances are:

(1) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide ("AB-CHMINACA");

(2) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide ("AB-PINACA"); and

(3) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl) methanone ("THJ-2201").

This action was based on a finding by the Administrator that the placement of these synthetic cannabinoids and their optical, positional, and geometric isomers, salts, and salts of isomers into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. Users reported impaired perception, reduced motor control, disorientation, extreme paranoia, and violent episodes. The long-term physical and psychological effects of use are unknown but potentially severe. Except as authorized by law, the emergency scheduling made possessing and selling these chemicals, or the products that contain them, illegal in the United States.

CONTROLLED/UNDERCOVER BUYS IN 2012

7. In July of 2012, NYSP undercover officers had made a series of purchases of packets containing known synthetic cannabinoid, among other substances, and were marketed as “G-13,” “G-20,” and “Mr. Happy,” for example. The packets of the synthetic cannabinoids were kept in a brown paper bag which was retrieved when the undercover officer would ask the store clerk for a particular synthetic cannanbinoid that the store may have carried. The packets were sold for $10.00 each and at each undercover buy; $20.00 - $30.00 of product was purchased with official agency funds (OAF).

8. On, July 6, 2012, an undercover officer walked into the store, “Best in the West,” located on Jay Street, Rochester, and engaged in conversation about the packets

being sold as "G-13". The undercover officer asked about other types and the clerk read multiple different types while sifting through the bag of packets. One of the packets of suspected cannabinoids was marked, "Tiger Shark". The undercover asked the clerk which one tasted better and the clerk stated they were from the same manufacturer. The undercover officer made a purchase of $20 for two (2) packets.

9. A second undercover officer also made a buy at the store on July 6, 2012, after asking the clerk in the store if he had any AMPED or Pump-it. The clerk said he did not have any so the undercover officer asked him what other kind of spice he had. A brown paper bag was retrieved from behind the counter and the uncover looked through and chose one packet of DANK and one packet of Atomic for $20.00

10. On July 12, 2012, an undercover officer, when making his purchase for G-13 asked the clerk what flavors they had. The clerk took out "Mr. Happy" (watermelon flavored) and the officer purchased both for $20. He also asked if he needed papers or if he could smoke it through glass, AKRAM stated that he could do it however he (the undercover officer) wanted - which indicated to the undercover that the clerk/AKRAM knew that the substances being sold were not being used as "incense" but were in fact being consumed by the purchasers.

11. On July 20, 2012, an undercover officer walked in to the store and engaged in conversation with the clerk. The officer asked if there was any G-13 and G-20 available and the clerk reached into a brown paper bag behind the counter which contained numerous

types of the suspected cannabinoids. The officer asked if there was any RAV of AMPED and the clerk shook his head in the negative. They discussed the AMPED a little more and the clerk suggested that the undercover go to another smoke shop. The officer purchased $20.00 for one package each of G-13 and G-20. A second undercover officer, who had accompanied the first undercover officer, asked the clerk if he had every had the G-13 and 20 and the clerk stated no. The second undercover officer said that he didn't like the taste of the "DANK" brand. The clerk said that everybody has different "tastes," again indicative of the fact that store clerks at "Best in the West" knew the products were being consumed. As the two officers were leaving the store, the clerk told them to bring in an empty package of the AMPED and "his guy" could try to get it.

12. On July 20, 2012, a third undercover entered the store and asked the clerk if he had any "G-13" and strawberry flavored ones. The clerk responded that he had a watermelon "Mr. Happy" and stated that if five were purchased, a sixth would be free. After some conversation about the different packages, the undercover purchased a package of "Mr. Happy", "Da Bomb", and one package of "G-13" and the clerk added a free package of "Tiger Shark" for a total of $30.00.

13. On January 27, 2012, an undercover NYSP investigator entered "Best in the West" for the purpose of buying a liquid synthetic cannabinoid substance from a person now identified as AKRAM. He proceeded to the counter where there was a display with "E" cigarette equipment and canisters. The investigator asked the clerk (identified as AKRAM) if there was any "Bizzarro," and the clerk stated he did not have "Bizzarro", and

he only had “Cloud 9”. The undercover investigator then purchased two (2) bottles for $10.00 each and used $20.00 in OAF.

14. On July 27, 2012, a second undercover investigator entered and again stood at the counter displaying “E” cigarette supplies and asked for “Bizzarro,” AKRAM replied he did not have any, but presented two other small plastic vials which the undercover officer purchased for $10.00 each. The substances purchased by the second undercover officer field-tested positive for the presence of synthetic cannabinoids.

AKRAM’S KNOWLEDGE OF CANNABINOID SALES

15. On July 26, 2012, a NYSP Investigator who identified himself as a law enforcement officer entered the store and spoke to the clerk. The clerk identified himself as AKRAM MOHAMMED. The NYSP investigator asked AKRAM if he was aware of the recent news of police raids for synthetic cannabis and “bath salts”. AKRAM said he had watched the news of the raids. The NYSP investigator asked AKRAM if he had anything he wanted to turn over. AKRAM voluntarily surrendered 34 packages of the synthetic cannabinoids or “bath salts” that were being sold in the store. The investigator then showed AKRAM a still photograph that depicted AKRAM in the middle of such a transaction and warned him that he was the subject of an investigation. As referenced above in paragraphs 13 and 14, sales of synthetic cannabinoids continued to be sold in the store after AKRAM was notified that he was the subject of an investigation.

CONTROLLED BUYS IN 2015

16. In late 2014, AKRAM became the subject of a second investigation based on reports of continual sales of synthetic cannabinoids at "Best in the West". In 2015, investigators located a user of the synthetic cannabinoid products who frequently purchased them from AKRAM and interviewed him/her and found that AKRAM had not stopped selling the synthetic cannabinoids, but in fact was selling them again in addition to a new liquid product that was being sold to e-cigarette users. The new liquid product also contained synthetic cannabinoids and other unlawful substances.

17. On January 27, 2015, an undercover NYSP investigator entered "Best in the West" and purchased one plastic bottle labeled "Cloud 9" and one plastic bottle labeled "Shisha" (both containing suspected liquid synthetic cannabinoids) from AKRAM for $20.00. Previous to this purchase, in December 2014, plastic bottles of a substance labeled "Shisha" were seized in Rochester, New York, and sent to the DEA Northeast Laboratory for analysis. The analysis showed that "Shisha" contained AB-PINACA, a Schedule I controlled substance as of January 30, 2015. In January 2015, plastic bottles of a substance labeled "Cloud 9" were seized in Buffalo, New York, and sent to the DEA Northeast Laboratory for analysis. The analysis showed that "Cloud 9" also contained AB-PINACA, a controlled substance.

18. On February 4, 2015, an undercover NYSP investigator entered "Best in the West" and purchased one plastic bottle labeled "Cloud 9," which contained suspected liquid synthetic cannabinoids, from AKRAM for $10. A second undercover NYSP investigator

entered "Best in the West" on February 4, 2015, and purchased one plastic bottle labeled "Cloud 9," which contained the suspected liquid synthetic cannabinoids, for $10. The substance in the bottle field-tested positive for the presence of synthetic cannabinoids.

19. On April 9, 2015, an undercover NYSP investigator entered "Best in the West" and had a brief conversation with the clerk about the purchase of "Bizzaro", during which the clerk stated he didn't have "that" (Bizarro). The undercover then purchased one plastic bottle labeled "Relax" from the clerk for $15. The substance in the bottle field-tested positive for the presence of synthetic cannabinoids.

ISSUANCE AND EXECUTION OF SEARCH WARRANTS

20. On April 13, 2015, the Honorable James J. Piampiano, Monroe County Court Judge, of the State of New York, issued a search warrant for "Best in the West." On April 14, 2015, an additional search warrant was issued by the Honorable Christopher Ciaccio, Monroe County Court Judge, of the State of New York, for AKRAM's residence in Rochester, New York. The warrants were executed on April 14, 2015.

SEIZURE OF DEFENDANT VEHICLE

21. On April 14, 2015, at approximately 8:15 a.m., NYSP conducted surveillance at 670 Jay Street, Rochester, New York, and observed AKRAM exit 670 Jay Street, #A1, holding a brown, square box, which appeared heavy. He entered a gray 2007 Honda Odyssey, with New York license plates GUU1110 (registered to AKRAM). After dropping a child off at a school, AKRAM proceeded south on I-390 and was stopped near an exit to

the New York State Thruway, I-90, at approximately 8:46 a.m., by a uniformed New York State Trooper with his narcotic-detection canine.

22. Upon stopping AKRAM's vehicle, the trooper asked AKRAM where he was traveling, and AKRAM said that he was heading to see a friend in Buffalo. The trooper then asked AKRAM the friend's name, and AKRAM changed his answer and said that he was going to a business. At that time, the trooper brought his detection canine, "JD" to AKRAM's 2007 Honda Odyssey minivan (the defendant vehicle) and the canine immediately alerted aggressively to the driver's door and then again to the front passenger's door. The trooper noticed that a box matching the description of the box that AKRAM had carried out of his house was sitting on the front passenger seat. The box contained three (3) gallon-sized containers. The liquid in the containers were subsequently field-tested for the presence of synthetic cannabinoids which resulted in a positive confirmation for the synthetic cannabinoids.

23. Agents from DEA advised AKRAM of the Miranda warnings and AKRAM waived his rights and agreed to speak with agents. He stated that he had purchased the three (3) gallon-sized containers from "Jay" in New York City for more than $1,000 each approximately a month ago. He also made additional statements that are not included in this complaint.

24. The defendant vehicle was seized by law enforcement on the basis that it was used and was intended to be used to transport and facilitate the transportation, sale, receipt, or possession of controlled substances in violation of 21 U.S.C. § 881(a)(4). AKRAM was

arrested with violations of 21 U.S.C. §§ 841(a)(1) and 842(b)(1)(C) (Distribution of, and Possession with Intent to Distribute Controlled Substances in that he did knowingly, intentionally, and unlawfully distribute, and possess with intent to distribute, synthetic controlled substances.)

SEIZURE OF THE DEFENDANT CURRENCY

25. On April 14, 2015, the search warrants issued on April 13, 2015, were executed at both "Best in the West," 670 Jay Street, Rochester and AKRAM's apartment, located above "Best in the West." Law enforcement officers entered the residence and located the defendant $67,847.00 currency under the bed in the master-bedroom of the apartment along with packets containing suspected synthetic cannabinoids. Included in the defendant currency was currency found to be traceable to official agency funds used to make purchases from AKRAM.

26. The defendant currency was found to be in the following denominations:

196 - $100.00 bills,

177 - $50.00 dollar bills,

1,936 - $20.00 bills,

34 - $10.00 bills,

15 - $5.00 bills,

129 - $2.00 bills and

4 - $1.00 bills.

The predominance of $20.00 bills is significant in that law enforcement believes that the $20 bills are often an indicator of drug traffickers as a majority of sales/purchases are in $20.00 increments.

27. Two digital scales were also seized with approximately 850 plastic bottles of synthetic cannabinoids such as "Cloud 9," "Shisha," "Bizarro,"[1] "Relax," and "West Coast;" and approximately 2,150 packets of "spice" under such brand names "Scooby Snax," "Bizarro," "G-10," "Mardi Gras," "Mad Hatter," "Remarkable Herbs," and "Mr. Happy," all suspected to contain synthetic cannabinoids. A sample of the seized items were sent to the North East Regional Laboratory for analysis. Correspondence addressed to AKRAM at both the business and residence locations at 670 Jay Street were also located and seized. Neither AKRAM or his wife made any statements regarding the drugs or the currency.

CRIMINAL PROCEEDINGS

28. On June 4, 2015, a federal Grand Jury handed down a three (3) count Indictment against AKRAM for the following:

Count 1: Knowingly, intentionally and unlawfully possess with intent to distribute, and distribute, a quantity of N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA), a Schedule I controlled substance.

Count 2: Knowingly, intentionally and unlawfully possess with intent to distribute, and distribute, a quantity of N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA), a Schedule I controlled substance.

[1] Bottles labeled "Bizarro" had previously been seized in Rochester, New York in December 2014. Laboratory analysis of the contents revealed the presence of AB-PINACA and AB-FUBINACA, a Schedule I controlled substance as of January 31, 2015.

Count 3: Knowingly, intentionally and unlawfully use and maintain a place, that is, the premises known as "Best in the West," at 670 Jay Street, Rochester, New York, for the purpose of distributing N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H- indazole-3-carboxamide (AB-FUBINACA) and N-(1-amino-3-methyl-1-oxobutan-2-yl)-1- pentyl-1H-indazole-3-carboxamide (AB-PINACA), Schedule I controlled substances.

The Indictment also included a forfeiture allegation for the defendant currency pursuant to 21 U.S.C. §853. The criminal case is pending in federal court, as United Sates of America vs. Mohammed W. Akram, Case No. 1:15-CR-00113-EAW-HBS.

INITIATION OF JUDICIAL ACTION

29. On or about June 16, 2015, AKRAM, through his attorney, J. Matthew Parrinello, Esq., submitted a claim to the Drug Enforcement Administration to halt administrative forfeiture proceedings against the defendant vehicle and currency in favor of judicial forfeiture proceedings.

CONCLUSION AND REQUEST FOR RELIEF

Based on all of the foregoing facts, the circumstances surrounding these facts, and the experience and training of the officers involved, there is cause to believe by a preponderance of the evidence that the defendant currency was furnished, or intended to be furnished in exchange for a controlled substance, and the vehicle used and was intended to be used to transport and facilitate the transportation, sale, receipt, or possession of controlled substances in violation of 21 U.S.C. Subchapter I of Chapter 13, §§ 801 et. seq.

and both the currency and vehicle are subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) and 881(a)(4) respectively.

WHEREFORE, the United States of America respectfully requests:

(1) that an arrest warrant in rem be issued for the arrest of the defendant currency and vehicle;

(2) that all persons having any interest therein be cited to appear herein and show cause why the forfeiture not be decreed;

(3) that a judgment be entered declaring the defendant currency and vehicle be condemned and forfeited to the United States of America for disposition in accordance with the law;

(4) that the costs of this suit be paid to and recovered by the United States of America; and

(5) that the Court grant such order and further relief as deemed just and proper.

DATED: Buffalo, New York, September 11, 2015.

WILLIAM J. HOCHUL, JR.
United States Attorney

BY: s/MARY CLARE KANE
Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716-843-5700 extension 809
mary.kane@usdoj.gov

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$67,847.00 UNITED STATES CURRENCY, and

ONE 2007 HONDA ODYSSEY,
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Defendants.

STATE OF NEW YORK)
COUNTY OF ERIE) ss
CITY OF BUFFALO)

I, Greg Yensan, being duly sworn, depose and say:

I am a Special Agent currently assigned to the Drug Enforcement Administration (DEA) in the Western District of New York. I am also assigned to the DEA's files on the investigation of the $67,847.00 United States Currency and one 2007 Honda Odyssey, VIN: 5FNRL38747B436542 seized from Mohammed Waqas Akram. The facts alleged in the Verified Complaint for Forfeiture are true to the best of my knowledge and belief and were obtained during the course of the investigation of the defendant currency from the official files of the DEA and the New York State Police and provided to the officials of the United States Department of Justice, United States Attorney's Office.

s/GREG YENSAN
SPECIAL AGENT
DRUG ENFORCMENT ADMINSTRATION

Subscribed and sworn to before
me this 11th day of September 2015.

_s/Patricia L Young__
Notary Public
PATRICIA L YOUNG
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires: 11-13-2017